

### **REMARKS/ARGUMENTS**

A substitute specification (with markings) is submitted to address the Examiner's objection to the page headers containing PCT and WO numbers and omission of section headings, such as "background of the invention", etc. Also included in the replacement specification are those Amendments to the Specification, previously identified on page 2 of this Response. Paragraph numbering has also been added. A clean version (without markings) is submitted herewith.

Replacement drawings have been filed herewith eliminating PCT and WO numbers on every sheet.

#### **35 U.S.C. § 112 Rejections**

The indefinite rejections of Claims 1 and 6 have been corrected by removing the words "which is capable of rupture" and adding the word "rupturable" instead.

#### **35 U.S.C. § 102 Rejections**

Claim 6 has been modified by combining with the former Claim 7 to add the limitations of Claim 7 into Claim 6. The amended Claim 6 is not anticipated since the prior art does not include all of the limitations recited in amended Claim 6. Therefore, Claim 7 should no longer be objected to as depending from a rejected base claim.

Claim 8 is presently dependent from amended Claim 6, and since Claim 6 is amended to overcome the § 102 rejection, Claim 8 contains allowable subject matter.

Claim 10 is presently dependent from amended Claim 6, and since Claim 6 is amended to overcome the § 102 rejection, Claim 10 contains allowable subject matter.

#### **35 U.S.C. § 103 Rejections**

Claim 9 is dependent from amended Claim 6, which adds the element of a heater in combination with a membrane that ruptures at an elevated temperature. This new combination in light of the amendments renders the combination unobvious. According to the recent U.S. Supreme Court decision in *KSR*, "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning

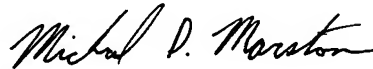
with some rational underpinning to support the legal conclusion of obviousness.” (*KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396).

The Schmidt and Shibata references do not disclose a heater in combination with a membrane that ruptures at an elevated temperature. Nor do the references teach, suggest, or provide any motivation to combine such a membrane with a heater. In light of the amendment to Claim 6, none of the applicable rationales cited above is met to substantiate an obvious rejection. Therefore, it is respectfully that the § 103 rejection to Claim 9 be withdrawn.

Applicant respectfully requests reconsideration of the rejections and that the Examiner place all pending claims in allowance in accordance with the amended claims. In the interest of expediting the examination of this case the Examiner is invited to contact the undersigned prior to taking any formal written action. Early and favorable issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

BOTKIN & HALL LLP



---

Michael D. Marston, Reg. No. 61,432  
105 E. Jefferson Blvd., Suite 400  
South Bend, IN 46601-1913  
Tel: 574.234.3900 / Fax: 574.236.2839  
Customer No. 31179  
*Attorney for Applicant(s)*